

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION**

LYNN FLACK,)	
)	
Plaintiff,)	
)	
v.)	No.
)	
CITIBANK, N.A.,)	
)	
Defendant.)	

PLAINTIFF'S COMPLAINT

NOW COMES Plaintiff, LYNN FLACK ("Plaintiff"), by and through his attorneys, Krohn & Moss, Ltd., for his Complaint against Defendant, CITIBANK, N.A. ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

Jurisdiction and Venue

2. This Court has subject matter jurisdiction of this action pursuant to 47 U.S.C. § 227(b)(3) and 28 U.S.C. § 1331.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the acts giving rise to Plaintiff's cause of action occurred in this district as Plaintiff resides in this district and as Defendant transacts business in this district.

Parties

4. Plaintiff is a natural person who at times relevant resided in Butler, Pennsylvania.

5. Defendant is a business entity with a business office located in Sioux Falls, South Dakota.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Factual Allegations

7. Defendant placed telephone calls to [REDACTED], Plaintiff's cellular telephone.

8. Defendant calls Plaintiff's cell phone using telephone number (800) 733-1116.

9. These calls were placed for non-emergency purposes.

10. Upon information and good faith belief, and in light of the frequency, number, nature, and character of these calls, Defendant placed them by using an automatic telephone dialing system.

11. On or about January 6, 2016, Plaintiff called Defendant and instructed Defendant to stop calling his cell phone.

12. Plaintiff revoked any consent, actual or implied, for Defendant to use an automatic telephone dialing system to call his cell phone.

13. Defendant continued to use an automatic telephone dialing system to call Plaintiff's cell phone after January 6, 2016.

14. Between January 6 and February 2, Defendant called Plaintiff's cell phone at least ninety-four (94) times, calling upwards of four (4) times per day.

15. Since January 6, 2016, Defendant called Plaintiff's cell phone at least one hundred fifty-seven (157) times.

16. Plaintiff is annoyed and feels harassed by Defendant's calls to his cell phone.

17. Defendant placed these calls voluntarily.

18. Defendant placed these calls under its own free will.

19. Defendant had knowledge that it was using an automatic telephone dialing system to place these calls.

20. Defendant intended to use an automatic telephone dialing system to place these calls.

CLAIM FOR RELIEF

Count I – Telephone Consumer Protection Act

21. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

22. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

23. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

24. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

25. All court costs, witness fees and other fees incurred; and

26. Any other relief that this Honorable Court deems appropriate.

Respectfully submitted,

Dated: April 26, 2016

/s/ Adam T. Hill
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